

## Merit Systems Protection Board

## § 1201.114

determines that the appellant's return to or presence in the workplace would be unduly disruptive.

[54 FR 53504, Dec. 29, 1989, as amended at 62 FR 17045, Apr. 9, 1997; 63 FR 41179, Aug. 3, 1998; 64 FR 27900, May 24, 1999; 77 FR 62367, Oct. 12, 2012]

### § 1201.112 Jurisdiction of judge.

(a) After issuing the initial decision, the judge will retain jurisdiction over a case only to the extent necessary to:

(1) Correct the transcript; when one is obtained;

(2) Rule on a request by the appellant for attorney fees, consequential damages, or compensatory damages under subpart H of this part;

(3) Process any petition for enforcement filed under subpart F of this part;

(4) Vacate an initial decision to accept into the record a settlement agreement that is filed prior to the deadline for filing a petition for review, even if the settlement agreement is not received until after the date when the initial decision becomes final under § 1201.113 of this part.

(b) Nothing in this section affects the time limits prescribed in § 1201.113 regarding the finality of an initial decision or the time allowed for filing a petition for review.

[59 FR 22125, Apr. 29, 1994, as amended at 62 FR 17045, Apr. 9, 1997; 70 FR 30609, May 27, 2005; 77 FR 62368, Oct. 12, 2012; 78 FR 23458, Apr. 19, 2013]

### § 1201.113 Finality of decision.

The initial decision of the judge will become the Board's final decision 35 days after issuance. Initial decisions are not precedential.

(a) *Exceptions.* The initial decision will not become the Board's final decision if within the time limit for filing specified in 1201.114 of this part, any party files a petition for review or, if no petition for review is filed, files a request that the initial decision be vacated for the purpose of accepting a settlement agreement into the record.

(b) *Petition for review denied.* If the Board denies all petitions for review, the initial decision will become final when the Board issues its last decision denying a petition for review.

(c) *Petition for review granted or case reopened.* If the Board grants a petition

for review or a cross petition for review, or reopens or dismisses a case, the decision of the Board is final if it disposes of the entire action.

(d) *Extensions.* The Board may extend the time limit for filing a petition for good cause shown as specified in § 1201.114 of this part.

(e) *Exhaustion.* Administrative remedies are exhausted when a decision becomes final in accordance with this section.

(f) When the Board, by final decision or order, finds there is reason to believe a current Federal employee may have committed a prohibited personnel practice described at 5 U.S.C. 2302(b)(8) or 2302(b)(9)(A)(i), (B), (C), or (D), the Board will refer the matter to the Special Counsel to investigate and take appropriate action under 5 U.S.C. 1215.

[54 FR 53504, Dec. 29, 1989, as amended at 62 FR 59992, Nov. 6, 1997; 77 FR 62368, Oct. 12, 2012; 78 FR 39545, July 2, 2013]

## Subpart C—Petitions for Review of Initial Decisions

### § 1201.114 Petition and cross petition for review—content and procedure.

(a) *Pleadings allowed.* Pleadings allowed on review include a petition for review, a cross petition for review, a response to a petition for review, a response to a cross petition for review, and a reply to a response to a petition for review.

(1) A petition for review is a pleading in which a party contends that an initial decision was incorrectly decided in whole or in part.

(2) A cross petition for review has the same meaning as a petition for review but is used to describe a pleading that is filed by a party when another party has already filed a timely petition for review.

(3) A response to a petition for review and a cross petition for review may be contained in a single pleading.

(4) A reply to a response to a petition for review is limited to the factual and legal issues raised by another party in the response to the petition for review. It may not raise new allegations of error.

(5) No pleading other than the ones described in this paragraph will be accepted unless the party files a motion